

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 17, 2010

AMENDED IN SENATE APRIL 22, 2010

AMENDED IN SENATE APRIL 12, 2010

SENATE BILL

No. 1392

Introduced by Senator Steinberg

February 19, 2010

An act to amend Sections 5713 ~~and 5813.5~~, 5778, *and* 5891 of, and to add Section 5784 to, the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1392, as amended, Steinberg. Mental health: community mental health services.

Existing law, the Bronzan-McCorquodale Act, contains provisions governing the operation and financing of community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs.

Under existing law, the State Department of Mental Health is allowed to advance, in equal monthly increments, up to 95% of the annual funds due to community mental health programs.

This bill would remove the restriction to 12 monthly installments and a maximum of 95% for advances.

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the Mental Health Services Fund to fund various county mental health programs. The act may be amended by the Legislature only by a $\frac{2}{3}$ vote of both houses and only so long as

~~the amendment is consistent with and furthers the intent of the act. The Legislature may clarify procedures and terms of the act by majority vote.~~

~~Existing law requires the distribution of funds for the provision of specified services, subject to the availability of funds in the Mental Health Services Fund.~~

~~This bill would provide that the distribution of funds for services provided be on a monthly basis.~~

Existing law provides for administration of the Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT) by the State Department of Mental Health.

Existing law separately establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services, including mental health services are provided to qualified low-income persons. The Medi-Cal program is partially governed and funded under federal Medicaid provisions.

Under existing law, the State Department of Mental Health is required to implement managed mental health care for Medi-Cal recipients through fee-for-service or capitated contracts with counties, counties acting jointly, qualified individuals or organizations, or nongovernmental entities. Existing law requires the department to allocate the contracted amount to the mental health plan (MHP) at the beginning of the contract period.

This bill would require the State Department of Mental Health to allocate and distribute annually the full appropriated amount to the MHP for the managed mental health program, exclusive of the EPSDT component.

Existing law requires MHPs to have sufficient matching funds on deposit with the department as matching funds necessary for federal financial participation, as specified.

This bill would eliminate this requirement.

This bill, as of July 1, 2011, would establish and continuously appropriate, without regard to fiscal year, to the State Department of Health Care Services, the Specialty Mental Health Services Federal Trust Fund, which would consist of federal funds that may be use to facilitate continuity of care for specialty mental health services provided to adults who are Medi-Cal beneficiaries. The bill would require moneys in the fund to be distributed by the State Department of Health Care Services to community mental health programs based on adjudicated claims.

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the Mental Health Services Fund (MHSF) to fund various county mental health programs. The act may be amended by the Legislature only by a ²/₃ vote of both houses and only so long as the amendment is consistent with and furthers the intent of the act. The Legislature may clarify procedures and terms of the act by majority vote. Under existing law, funding for the Mental Health Services Act is required to be used to expand mental health services, but may be loaned to the General Fund, as provided.

This bill would, instead, subject to the availability of funding in the MHSF, require the State Department of Mental Health to distribute in a single lump sum the total approved funding to the counties for the provision of programs and other activities, as specified.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) In recent years, community mental health services, which
- 4 are administered by the counties, have experienced sharp budget
- 5 reductions.
- 6 (b) These reductions have exacerbated emergency room
- 7 overcrowding, with mental health clients in crisis showing up in
- 8 emergency rooms instead of at mental health programs.
- 9 (c) Numerous recent audits of the state's administration of
- 10 mental health funds by the federal Centers for Medicaid and
- 11 Medicare Services, conducted in 2008 and 2010, revealed state
- 12 noncompliance with federal cost reporting requirements.
- 13 (d) Moreover, in 2007, a state audit by the Department of
- 14 Finance, Office of State Audits and Evaluations unearthed
- 15 deficiencies in the claims processing process for federal ~~Medicare~~
- 16 *Medicaid* funds for mental health.
- 17 (e) This act is necessary to facilitate the efficiency and cost
- 18 effectiveness of community mental health services and to prevent
- 19 avoidable future county budget cuts to mental health.
- 20 SEC. 2. Section 5713 of the Welfare and Institutions Code is
- 21 amended to read:

5713. Advances for funding mental health services may be made by the Director of Mental Health from funds appropriated to the department for local mental health programs and services specified in the annual Budget Act. Advances made pursuant to this section shall be made in the form and manner the Director of Mental Health shall determine. When certified by the Director of Mental Health, advances shall be presented to the Controller for payment. Each advance shall be payable from the appropriation made for the fiscal year in which the expenses upon which the advance is based are incurred.

SEC. 3. Section 5778 of the Welfare and Institutions Code is amended to read:

5778. (a) This section shall be limited to specialty mental health services reimbursed through a fee-for-service payment system.

(b) The following provisions shall apply to matters related to specialty mental health services provided under the Medi-Cal specialty mental health services waiver, including, but not limited to, reimbursement and claiming procedures, reviews and oversight, and appeal processes for mental health plans (MHPs) and MHP subcontractors.

(1) During the initial phases of the implementation of this part, as determined by the department, the MHP contractor and subcontractors shall submit claims under the Medi-Cal program for eligible services on a fee-for-service basis.

(2) A qualifying county may elect, with the approval of the department, to operate under the requirements of a capitated, integrated service system field test pursuant to Section 5719.5 rather than this part, in the event the requirements of the two programs conflict. A county that elects to operate under that section shall comply with all other provisions of this part that do not conflict with that section.

(3) (A) No sooner than October 1, 1994, state matching funds for Medi-Cal fee-for-service acute psychiatric inpatient services, and associated administrative days, shall be transferred to the department. No later than July 1, 1997, upon agreement between the department and the State Department of Health Care Services, state matching funds for the remaining Medi-Cal fee-for-service mental health services and the state matching funds associated

1 with field test counties under Section 5719.5 shall be transferred
2 to the department.

3 (B) The department, in consultation with the State Department
4 of Health Care Services, a statewide organization representing
5 counties, and a statewide organization representing health
6 maintenance organizations shall develop a timeline for the transfer
7 of funding and responsibility for fee-for-service mental health
8 services from Medi-Cal managed care plans to MHPs. In
9 developing the timeline, the department shall develop screening,
10 referral, and coordination guidelines to be used by Medi-Cal
11 managed care plans and MHPs.

12 (4) (A) (i) A MHP subcontractor providing specialty mental
13 health services shall be financially responsible for federal audit
14 exceptions or disallowances to the extent that these exceptions or
15 disallowances are based on the MHP subcontractor's conduct or
16 determinations.

17 (ii) The state shall be financially responsible for federal audit
18 exceptions or disallowances to the extent that these exceptions or
19 disallowances are based on the state's conduct or determinations.
20 The state shall not withhold payment from a MHP for exceptions
21 or disallowances that the state is financially responsible for
22 pursuant to this clause.

23 (iii) A MHP shall be financially responsible for state audit
24 exceptions or disallowances to the extent that these exceptions or
25 disallowances are based on the MHP's conduct or determinations.
26 A MHP shall not withhold payment from a MHP subcontractor
27 for exceptions or disallowances for which the MHP is financially
28 responsible pursuant to this clause.

29 (B) For purposes of subparagraph (A), a "determination" shall
30 be shown by a written document expressly stating the
31 determination, while "conduct" shall be shown by any credible,
32 legally admissible evidence.

33 (C) The department and the State Department of Health Care
34 Services shall work jointly with MHPs in initiating any necessary
35 appeals. The department may invoice or offset the amount of any
36 federal disallowance or audit exception against subsequent claims
37 from the MHP or MHP subcontractor. This offset may be done at
38 any time, after the audit exception or disallowance has been
39 withheld from the federal financial participation claim made by
40 the State Department of Health Care Services. The maximum

1 amount that may be withheld shall be 25 percent of each payment
2 to the plan or subcontractor.

3 (5) (A) Oversight by the department of the MHPs and MHP
4 subcontractors may include client record reviews of Early Periodic
5 Screening Diagnosis and Treatment (EPSDT) specialty mental
6 health services under the Medi-Cal specialty mental health services
7 waiver in addition to other audits or reviews that are conducted.

8 (B) The department may contract with an independent,
9 nongovernmental entity to conduct client record reviews. The
10 contract awarded in connection with this section shall be on a
11 competitive bid basis, pursuant to the Department of General
12 Services contracting requirements, and shall meet both of the
13 following additional requirements:

14 (i) Require the entity awarded the contract to comply with all
15 federal and state privacy laws, including, but not limited to, the
16 federal Health Insurance Portability and Accountability Act
17 (HIPAA; 42 U.S.C. Sec. 1320d et seq.) and its implementing
18 regulations, the Confidentiality of Medical Information Act (Part
19 2.6 (commencing with Section 56) of Division 1 of the Civil Code),
20 and Section 1798.81.5 of the Civil Code. The entity shall be subject
21 to existing penalties for violation of these laws.

22 (ii) Prohibit the entity awarded the contract from using, selling,
23 or disclosing client records for a purpose other than the one for
24 which the record was given.

25 (C) For purposes of this paragraph, the following terms shall
26 have the following meanings:

27 (i) "Client record" means a medical record, chart, or similar
28 file, as well as other documents containing information regarding
29 an individual recipient of services, including, but not limited to,
30 clinical information, dates and times of services, and other
31 information relevant to the individual and services provided and
32 that evidences compliance with legal requirements for Medi-Cal
33 reimbursement.

34 (ii) "Client record review" means examination of the client
35 record for a selected individual recipient for the purpose of
36 confirming the existence of documents that verify compliance with
37 legal requirements for claims submitted for Medi-Cal
38 reimbursement.

39 (D) The department shall recover overpayments of federal
40 financial participation from MHPs within the timeframes required

1 by federal law and regulation and return those funds to the State
2 Department of Health Care Services for repayment to the federal
3 Centers for Medicare and Medicaid Services. The department shall
4 recover overpayments of General Fund moneys utilizing the
5 recoupment methods and timeframes required by the State
6 Administrative Manual.

7 (6) (A) The department, in consultation with mental health
8 stakeholders, the California Mental Health Directors Association,
9 and MHP subcontractor representatives, shall provide an appeals
10 process that specifies a progressive process for resolution of
11 disputes about claims or recoupments relating to specialty mental
12 health services under the Medi-Cal specialty mental health services
13 waiver.

14 (B) The department shall provide MHPs and MHP
15 subcontractors the opportunity to directly appeal findings in
16 accordance with procedures that are similar to those described in
17 Article 1.5 (commencing with Section 51016) of Chapter 3 of
18 Subdivision 1 of Division 3 of Title 22 of the California Code of
19 Regulations, until new regulations for a progressive appeals process
20 are promulgated. When an MHP subcontractor initiates an appeal,
21 it shall give notice to the MHP. The department shall propose a
22 rulemaking package by no later than the end of the 2008–09 fiscal
23 year to amend the existing appeals process. The reference in this
24 subparagraph to the procedures described in Article 1.5
25 (commencing with Section 51016) of Chapter 3 of Subdivision 1
26 of Division 3 of Title 22 of the California Code of Regulations,
27 shall only apply to those appeals addressed in this subparagraph.

28 (C) The department shall develop regulations as necessary to
29 implement this paragraph.

30 (7) The department shall assume the applicable program
31 oversight authority formerly provided by the State Department of
32 Health Care Services, including, but not limited to, the oversight
33 of utilization controls as specified in Section 14133. The MHP
34 shall include a requirement in any subcontracts that all inpatient
35 subcontractors maintain necessary licensing and certification.
36 MHPs shall require that services delivered by licensed staff are
37 within their scope of practice. Nothing in this part shall prohibit
38 the MHPs from establishing standards that are in addition to the
39 minimum federal and state requirements, provided that these

1 standards do not violate federal and state Medi-Cal requirements
2 and guidelines.

3 (8) Subject to federal approval and consistent with state
4 requirements, the MHP may negotiate rates with providers of
5 mental health services.

6 (9) Under the fee-for-service payment system, any excess in
7 the payment set forth in the contract over the expenditures for
8 services by the plan shall be spent for the provision of specialty
9 mental health services under the Medi-Cal specialty mental health
10 service waiver and related administrative costs.

11 (10) Nothing in this part shall limit the MHP from being
12 reimbursed appropriate federal financial participation for any
13 qualified services even if the total expenditures for service exceeds
14 the contract amount with the department. Matching nonfederal
15 public funds shall be provided by the plan for the federal financial
16 participation matching requirement.

17 (c) ~~The provisions of this~~ This subdivision shall apply to
18 managed mental health care funding allocations and risk-sharing
19 determinations and arrangements.

20 (1) ~~The department shall allocate the contracted amount at the~~
21 ~~beginning of the contract period to the MHP and distribute~~
22 ~~annually the full appropriated amount to each MHP for the~~
23 ~~managed mental health care program, exclusive of the EPSDT~~
24 ~~specialty mental health services program, provided under the~~
25 ~~mental health services waiver.~~ The allocated funds shall be
26 considered to be funds of the plan ~~that may be held by the~~
27 ~~department. The department shall develop a methodology to ensure~~
28 ~~that these funds are held as the property of the plan and shall not~~
29 ~~be reallocated by the department or other entity of state government~~
30 ~~for other purposes to be used as specified in this part.~~

31 (2) Each fiscal year the state matching funds for Medi-Cal
32 specialty mental health services shall be included in the annual
33 budget for the department. The amount included shall be based on
34 historical cost, adjusted for changes in the number of Medi-Cal
35 beneficiaries and other relevant factors. The appropriation for
36 funding the state share of the costs for EPSDT specialty mental
37 health services provided under the Medi-Cal specialty mental
38 health services waiver shall only be used for reimbursement
39 payments of claims for those services.

1 (3) Initially, the MHP shall use the fiscal intermediary of the
2 Medi-Cal program of the State Department of Health Care Services
3 for the processing of claims for inpatient psychiatric hospital
4 services and may be required to use that fiscal intermediary for
5 the remaining mental health services. The providers for other
6 Short-Doyle Medi-Cal services shall not be initially required to
7 use the fiscal intermediary but may be required to do so on a date
8 to be determined by the department. The department and its MHPs
9 shall be responsible for the initial incremental increased matching
10 costs of the fiscal intermediary for claims processing and
11 information retrieval associated with the operation of the services
12 funded by the transferred funds.

13 ~~(4) The MHPs shall have sufficient funds on deposit with the~~
14 ~~department as the matching funds necessary for federal financial~~
15 ~~participation to ensure timely payment of claims for acute~~
16 ~~psychiatric inpatient services and associated administrative days.~~
17 ~~The department and the State Department of Health Care Services,~~
18 ~~in consultation with a statewide organization representing counties,~~
19 ~~shall establish a mechanism to facilitate timely availability of those~~
20 ~~funds. Any funds held by the state on behalf of a plan shall be~~
21 ~~deposited in a mental health managed care deposit fund and shall~~
22 ~~accrue interest to the plan. The department shall exercise any~~
23 ~~necessary funding procedures pursuant to Section 12419.5 of the~~
24 ~~Government Code and Sections 8776.6 and 8790.8 of the State~~
25 ~~Administrative Manual regarding county claim submission and~~
26 ~~payment.~~

27 (5)

28 (4) The goal for funding of the future capitated system shall be
29 to develop statewide rates for beneficiary, by aid category and
30 with regional price differentiation, within a reasonable time period.
31 The formula for distributing the state matching funds transferred
32 to the department for acute inpatient psychiatric services to the
33 participating counties shall be based on the following principles:

34 (A) Medi-Cal state General Fund matching dollars shall be
35 distributed to counties based on historic Medi-Cal acute inpatient
36 psychiatric costs for the county's beneficiaries and on the number
37 of persons eligible for Medi-Cal in that county.

38 (B) All counties shall receive a baseline based on historic and
39 projected expenditures up to October 1, 1994.

(C) Projected inpatient growth for the period October 1, 1994, to June 30, 1995, inclusive, shall be distributed to counties below the statewide average per eligible person on a proportional basis. The average shall be determined by the relative standing of the aggregate of each county's expenditures of mental health Medi-Cal dollars per beneficiary. Total Medi-Cal dollars shall include both fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for both acute inpatient psychiatric services, outpatient mental health services, and psychiatric nursing facility services, both in facilities that are not designated as institutions for mental disease and for beneficiaries who are under 22 years of age and beneficiaries who are over 64 years of age in facilities that are designated as institutions for mental disease.

(D) There shall be funds set aside for a self-insurance risk pool for small counties. The department may provide these funds directly to the administering entity designated in writing by all counties participating in the self-insurance risk pool. The small counties shall assume all responsibility and liability for appropriate administration of these funds. For purposes of this subdivision, "small counties" means counties with less than 200,000 population. Nothing in this paragraph shall in any way obligate the state or the department to provide or make available any additional funds beyond the amount initially appropriated and set aside for each particular fiscal year, unless otherwise authorized in statute or regulations, nor shall the state or the department be liable in any way for mismanagement of loss of funds by the entity designated by the counties under this paragraph.

~~(6)~~

(5) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994–95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse MHPs in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the MHP for risk reinsurance, acute inpatient psychiatric services and associated administrative days, alternatives to hospital services as approved by participating small counties, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be

determined by the small counties, through a statewide organization representing counties, in consultation with the department.

(B) The balance of the transfer amount for the 1994–95 fiscal year shall be allocated to counties based on the following formula:

| County | Percentage |
|-------------------|------------|
| Alameda..... | 3.5991 |
| Alpine..... | .0050 |
| Amador..... | .0490 |
| Butte..... | .8724 |
| Calaveras..... | .0683 |
| Colusa..... | .0294 |
| Contra Costa..... | 1.5544 |
| Del Norte..... | .1359 |
| El Dorado..... | .2272 |
| Fresno..... | 2.5612 |
| Glenn..... | .0597 |
| Humboldt..... | .1987 |
| Imperial..... | .6269 |
| Inyo..... | .0802 |
| Kern..... | 2.6309 |
| Kings..... | .4371 |
| Lake..... | .2955 |
| Lassen..... | .1236 |
| Los Angeles..... | 31.3239 |
| Madera..... | .3882 |
| Marin..... | 1.0290 |
| Mariposa..... | .0501 |
| Mendocino..... | .3038 |
| Merced..... | .5077 |
| Modoc..... | .0176 |
| Mono..... | .0096 |
| Monterey..... | .7351 |
| Napa..... | .2909 |
| Nevada..... | .1489 |
| Orange..... | 8.0627 |
| Placer..... | .2366 |
| Plumas..... | .0491 |
| Riverside..... | 4.4955 |
| Sacramento..... | 3.3506 |

| 1 | County | Percentage |
|----|----------------------|------------|
| 2 | San Benito..... | .1171 |
| 3 | San Bernardino..... | 6.4790 |
| 4 | San Diego..... | 12.3128 |
| 5 | San Francisco..... | 3.5473 |
| 6 | San Joaquin..... | 1.4813 |
| 7 | San Luis Obispo..... | .2660 |
| 8 | San Mateo..... | .0000 |
| 9 | Santa Barbara..... | .0000 |
| 10 | Santa Clara..... | 1.9284 |
| 11 | Santa Cruz..... | 1.7571 |
| 12 | Shasta..... | .3997 |
| 13 | Sierra..... | .0105 |
| 14 | Siskiyou..... | .1695 |
| 15 | Solano..... | .0000 |
| 16 | Sonoma..... | .5766 |
| 17 | Stanislaus..... | 1.7855 |
| 18 | Sutter/Yuba..... | .7980 |
| 19 | Tehama..... | .1842 |
| 20 | Trinity..... | .0271 |
| 21 | Tulare..... | 2.1314 |
| 22 | Tuolumne..... | .2646 |
| 23 | Ventura..... | .8058 |
| 24 | Yolo..... | .4043 |

25
26 ~~(7)~~

27 (6) The allocation method for the state funds transferred for
28 subsequent years for acute inpatient psychiatric and other specialty
29 mental health services shall be determined by the department in
30 consultation with a statewide organization representing counties.

31 ~~(8)~~

32 (7) The allocation methodologies described in this section shall
33 only be in effect while federal financial participation is received
34 on a fee-for-service reimbursement basis. When federal funds are
35 capitated, the department, in consultation with a statewide
36 organization representing counties, shall determine the
37 methodology for capitation consistent with federal requirements.
38 The share of cost ratio arrangement for EPSDT specialty mental
39 health services provided under the Medi-Cal specialty mental
40 health services waiver between the state and the counties in

1 existence during the 2007–08 fiscal year shall remain as the share
2 of cost ratio arrangement for these services unless changed by
3 statute.

4 ~~(9)~~

5 (8) The formula that specifies the amount of state matching
6 funds transferred for the remaining Medi-Cal fee-for-service mental
7 health services shall be determined by the department in
8 consultation with a statewide organization representing counties.
9 This formula shall only be in effect while federal financial
10 participation is received on a fee-for-service reimbursement basis.

11 ~~(10)~~

12 (9) (A) For the managed mental health care program, exclusive
13 of EPSDT specialty mental health services provided under the
14 Medi-Cal specialty mental health services waiver, the department
15 shall establish, by regulation, a risk-sharing arrangement between
16 the department and counties that contract with the department as
17 MHPs to provide an increase in the state General Fund allocation,
18 subject to the availability of funds, to the MHP under this section,
19 where there is a change in the obligations of the MHP required by
20 federal or state law or regulation, or required by a change in the
21 interpretation or implementation of any such law or regulation
22 which significantly increases the cost to the MHP of performing
23 under the terms of its contract.

24 (B) During the time period required to redetermine the
25 allocation, payment to the MHP of the allocation in effect at the
26 time the change occurred shall be considered an interim payment,
27 and shall be subject to increase effective as of the date on which
28 the change is effective.

29 (C) In order to be eligible to participate in the risk-sharing
30 arrangement, the county shall demonstrate, to the satisfaction of
31 the department, its commitment or plan of commitment of all
32 annual funding identified in the total mental health resource base,
33 from whatever source, but not including county funds beyond the
34 required maintenance of effort, to be spent on specialty mental
35 health services. This determination of eligibility shall be made
36 annually. The department may limit the participation in a
37 risk-sharing arrangement of any county that transfers funds from
38 the mental health account to the social services account or the
39 health services account, in accordance with Section 17600.20
40 during the year to which the transfers apply to MHP expenditures

1 for the new obligation that exceed the total mental health resource
2 base, as measured before the transfer of funds out of the mental
3 health account and not including county funds beyond the required
4 maintenance of effort. The State Department of Mental Health
5 shall participate in a risk-sharing arrangement only after a county
6 has expended its total annual mental health resource base.

7 (d) The following provisions govern the administrative
8 responsibilities of the department and the State Department of
9 Health Care Services:

10 (1) It is the intent of the Legislature that the department and the
11 State Department of Health Care Services consult and collaborate
12 closely regarding administrative functions related to and supporting
13 the managed mental health care program in general, and the
14 delivery and provision of EPSDT specialty mental health services
15 provided under the Medi-Cal specialty mental health services
16 waiver, in particular. To this end, the following provisions shall
17 apply:

18 (A) Commencing in the 2009–10 fiscal year, and each fiscal
19 year thereafter, the department shall consult with the State
20 Department of Health Care Services and amend the interagency
21 agreement between the two departments as necessary to include
22 improvements or updates to procedures for the accurate and timely
23 processing of Medi-Cal claims for specialty mental health services
24 provided under the Medi-Cal specialty mental health services
25 waiver. The interagency agreement shall ensure that there are
26 consistent and adequate time limits, consistent with federal and
27 state law, for claims submitted and the need to correct errors.

28 (B) Commencing in the 2009–10 fiscal year, and each fiscal
29 year thereafter, upon a determination by the department and the
30 State Department of Health Care Services that it is necessary to
31 amend the interagency agreement, the department and the State
32 Department of Health Care Services shall process the interagency
33 agreement to ensure final approval by January 1, for the following
34 fiscal year, and as adjusted by the budgetary process.

35 (C) The interagency agreement shall include, at a minimum, all
36 of the following:

37 (i) A process for ensuring the completeness, validity, and timely
38 processing of Medi-Cal claims as mandated by the federal Centers
39 for Medicare and Medicaid Services.

1 (ii) Procedures and timeframes by which the department shall
2 submit complete, valid, and timely invoices to the State Department
3 of Health Care Services, which shall notify the department of
4 inconsistencies in invoices that may delay payments.

5 (iii) Procedures and timeframes by which the department shall
6 notify MHPs of inconsistencies that may delay payment.

7 (2) (A) The department shall consult with the State Department
8 of Health Care Services and the California Mental Health Directors
9 Association in February and September of each year to review the
10 methodology used to forecast future trends in the provision of
11 EPSDT specialty mental health services provided under the
12 Medi-Cal specialty mental health services waiver, to estimate these
13 yearly EPSDT specialty mental health services related costs, and
14 to estimate the annual amount of funding required for
15 reimbursements for EPSDT specialty mental health services to
16 ensure relevant factors are incorporated in the methodology. The
17 estimates of costs and reimbursements shall include both federal
18 financial participation amounts and any state General Fund amounts
19 for EPSDT specialty mental health services provided under the
20 State Medi-Cal specialty mental health services waiver. The
21 department shall provide the State Department of Health Care
22 Services the estimate adjusted to a cash basis.

23 (B) The estimate of annual funding described in subparagraph
24 (A) shall, include, but not be limited to, the following factors:

25 (i) The impacts of interactions among caseload, type of services,
26 amount or number of services provided, and billing unit cost of
27 services provided.

28 (ii) A systematic review of federal and state policies, trends
29 over time, and other causes of change.

30 (C) The forecasting and estimates performed under this
31 paragraph are primarily for the purpose of providing the Legislature
32 and the Department of Finance with projections that are as accurate
33 as possible for the state budget process, but will also be informative
34 and useful for other purposes. Therefore, it is the intent of the
35 Legislature that the information produced under this paragraph
36 shall be taken into consideration under paragraph (10) of
37 subdivision (c).

38 ~~SEC. 3.~~

39 *SEC. 4.* Section 5784 is added to the Welfare and Institutions
40 Code, to read:

1 5784. (a) Effective July 1, 2011, the Specialty Mental Health
2 Services Federal Trust Fund is hereby created in the State Treasury.
3 Notwithstanding Section 13340 of the Government Code, the
4 Specialty Mental Health Services Federal Trust Fund is hereby
5 continuously appropriated to the State Department of Health Care
6 Services, without regard to fiscal year.

7 (b) The fund consists of federal funds that may be used to
8 facilitate continuity of care for specialty mental health services
9 provided to adults who are Medi-Cal beneficiaries.

10 (c) Moneys in the fund shall be distributed by the State
11 Department of Health Care Services to community mental health
12 programs based on adjudicated claims and in accordance with the
13 requirements of federal law and the State Department of Health
14 Care Services, the state's designated Medicaid entity.

15 ~~SEC. 4. Section 5813.5 of the Welfare and Institutions Code~~
16 ~~is amended to read:~~

17 ~~5813.5. Subject to the availability of funds from the Mental~~
18 ~~Health Services Fund, the State Department of Mental Health shall~~
19 ~~distribute funds for the provision of services under Sections 5801,~~
20 ~~5802 and 5806 to county mental health programs on a monthly~~
21 ~~basis. Services shall be available to adults and seniors with severe~~
22 ~~illnesses who meet the eligibility criteria in subdivisions (b) and~~
23 ~~(c) of Section 5600.3 of the Welfare and Institutions Code. For~~
24 ~~purposes of this act, seniors means older adult persons identified~~
25 ~~in Part 3 (commencing with Section 5800) of this division.~~

26 ~~(a) Funding shall be provided at sufficient levels to ensure that~~
27 ~~counties can provide each adult and senior served pursuant to this~~
28 ~~part with the medically necessary mental health services,~~
29 ~~medications and supportive services set forth in the applicable~~
30 ~~treatment plan.~~

31 ~~(b) The funding shall only cover the portions of those costs of~~
32 ~~services that cannot be paid for with other funds including other~~
33 ~~mental health funds, public and private insurance, and other local,~~
34 ~~state and federal funds.~~

35 ~~(c) Each county mental health programs plan shall provide for~~
36 ~~services in accordance with the system of care for adults and~~
37 ~~seniors who meet the eligibility criteria in subdivisions (b) and (c)~~
38 ~~of Section 5600.3.~~

1 ~~(d) Planning for services shall be consistent with the philosophy,~~
2 ~~principles, and practices of the Recovery Vision for mental health~~
3 ~~consumers:~~

4 ~~(1) To promote concepts key to the recovery for individuals~~
5 ~~who have mental illness: hope, personal empowerment, respect,~~
6 ~~social connections, self-responsibility, and self-determination.~~

7 ~~(2) To promote consumer-operated services as a way to support~~
8 ~~recovery.~~

9 ~~(3) To reflect the cultural, ethnic and racial diversity of mental~~
10 ~~health consumers.~~

11 ~~(4) To plan for each consumer's individual needs.~~

12 ~~(e) The plan for each county mental health program shall~~
13 ~~indicate, subject to the availability of funds as determined by Part~~
14 ~~4.5 (commencing with Section 5890) of this division, and other~~
15 ~~funds available for mental health services, adults and seniors with~~
16 ~~a severe mental illness being served by this program are either~~
17 ~~receiving services from this program or have a mental illness that~~
18 ~~is not sufficiently severe to require the level of services required~~
19 ~~of this program.~~

20 ~~(f) Each county plan and annual update pursuant to Section~~
21 ~~5847 shall consider ways to provide services similar to those~~
22 ~~established pursuant to the Mentally Ill Offender Crime Reduction~~
23 ~~Grant Program. Funds shall not be used to pay for persons~~
24 ~~incarcerated in state prison or parolees from state prisons.~~

25 ~~(g) The department shall contract for services with county~~
26 ~~mental health programs pursuant to Section 5897. After the~~
27 ~~effective date of this section the term grants referred to in Sections~~
28 ~~5814 and 5814.5 shall refer to such contracts.~~

29 *SEC. 5. Section 5891 of the Welfare and Institutions Code is*
30 *amended to read:*

31 5891. (a) The funding established pursuant to this act shall be
32 utilized to expand mental health services. These funds shall not
33 be used to supplant existing state or county funds utilized to
34 provide mental health services. The state shall continue to provide
35 financial support for mental health programs with not less than the
36 same entitlements, amounts of allocations from the General Fund
37 and formula distributions of dedicated funds as provided in the
38 last fiscal year which ended prior to the effective date of this act.
39 The state shall not make any change to the structure of financing
40 mental health services, which increases a county's share of costs

1 or financial risk for mental health services unless the state includes
2 adequate funding to fully compensate for such increased costs or
3 financial risk. These funds shall only be used to pay for the
4 programs authorized in Section 5892. These funds may not be used
5 to pay for any other program. These funds may not be loaned to
6 the state General Fund or any other fund of the state, or a county
7 general fund or any other county fund for any purpose other than
8 those authorized by Section 5892.

9 (b) Notwithstanding subdivision (a), the Controller may use the
10 funds created pursuant to this part for loans to the General Fund
11 as provided in Sections 16310 and 16381 of the Government Code.
12 Any such loan shall be repaid from the General Fund with interest
13 computed at 110 percent of the Pooled Money Investment Account
14 rate, with interest commencing to accrue on the date the loan is
15 made from the fund. This subdivision does not authorize any
16 transfer that would interfere with the carrying out of the object for
17 which these funds were created.

18 (c) *Subject to the availability of funding in the Mental Health*
19 *Services Fund as determined by the Department of Finance, the*
20 *State Department of Mental Health shall distribute in a single*
21 *lump sum the total approved funding to each county for the*
22 *provision of programs and other related activities set forth in Part*
23 *3 (commencing with Section 5800), Part 3.2 (commencing with*
24 *Section 5830), Part 3.6 (commencing with Section 5840), and Part*
25 *4 (commencing with Section 5850).*